

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHARLES “CHED” MACQUIGG,

Plaintiff,

vs.

Civ. No. 12-1137 MCA/KBM

THE ALBUQUERQUE PUBLIC
SCHOOLS BOARD OF EDUCATION,
et al.,

Defendants.

ORDER DENYING MOTION FOR RECONSIDERATION

This case is before the Court upon Plaintiff’s Motion for Reconsideration. [Doc. 155]


As the Court explained in its April 6, 2015 Amended Memorandum Opinion and Order, injunctive and declaratory relief is not available against Defendants sued in their individual capacities. The claims against those Defendants sued in their individual capacities necessarily are claims for damages, subject to the defense of qualified immunity. As *Pearson v. Callahan*, 555 U.S. 223 (2009), established, it is the Court’s prerogative, in the exercise of its sound discretion, to determine the order in which the two prongs of qualified immunity are addressed.

It is true, as Plaintiff points out in his motion, that Rule 56(a) authorizes a motion for summary judgment on “part” of a claim. It appears that Plaintiff, by moving for summary judgment on the merits of his claims against the individual Defendants—*i.e.*, prong one of the qualified immunity analysis—is attempting to deprive the Court of its prerogative of addressing the two prongs of qualified immunity in the order it chooses. The Court will not countenance this approach. If Plaintiff desires a ruling on his claims against those Defendants sued in their individual capacities, he must move for summary judgment in a manner that preserves to the Court its prerogative of addressing qualified immunity in the order it chooses. Preserving the Court’s prerogative is especially important where, as here, the plaintiff may face significant problems in satisfying prong two’s requirement that the law on which Plaintiff relies have been clearly established at the appropriate level of specificity by Supreme Court or binding Tenth Circuit precedent.

WHEREFORE,

IT HEREBY IS ORDERED that Plaintiff’s Motion for Reconsideration [Doc. 155] is **denied**.

So ordered this 10th day of August, 2015.



M. CHRISTINA ARMIJO
Chief United States District Judge